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EXAMINER

STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,383

Applicant(s)

BYE, JONATHAN

Examiner

Johnna R Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 19, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-98 and 100-213 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-98 and 100-213 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. The following is a second non-final office action in response to an amendment filed on February 19, 2003. Claim 99 has been cancelled. Claims 1-98 and 100-213 are pending. Claim 76 has been amended.

Response to Amendment

2. Examiner acknowledges corrections made to claim 76 and has withdrawn the claim objection.

3. As per rejections under 35 USC 112 to claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199 and 201, Applicant further defined the intended meaning of the terms pre-season and in-season performance. Examiner respectfully submits that it is well known in the art of supply chain management that the evaluation of a supplier would take into account pre-season and in-season performance. In any supply chain where products are being manufactured or sold, seasons play a big role. For example, in the production of bathing suits, there would be a greater demand in the months leading to summer, therefore, it would be important to see how well the suppliers in the supply chain can react to the increase in demand.

4. As per rejections under 35 USC 102 to claims 1-3, 5, 7, 10, 13, 14, 16, 17, 19-22, 24, 29, 32, 33, 35, 36, 38-41, 43, 48, 51, 52, 54, 55, 57-60, 62, 67, 70, 71, 73, 74, 76, 93-97, 99, 104, 107, 108, 110, 111, 113-117, 119, 124, 127, 128, 130, 131, 133-137, 139, 144, 147, 148, 150, 151, 153-158, 160, 162, 165, 168, 169, 171, 172, 174-178, 180, 185, 188, 189, 191, 192, 194-198, 200, 205, 208, 209, 211 and 212, Applicant argues that the Aycock reference does not teach a supply chain. Examiner acknowledges that Aycock does not explicitly teach a supply chain, but does teach the evaluation of a supplier. Although applicant gives specific passages from the

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specification further defining a supply chain, the claims are directed to the evaluation of the performance of a supplier in a supply chain. Inherently, a supplier of goods or services is part of a supply chain. Therefore, the rejection under 35 USC 102 that Aycock anticipates the claims is upheld.

5. As per rejections under 35 USC 102 to claims 1, 2, 7-9, 11, 12, 15, 18, 20, 26-28, 30, 31, 34, 37, 39, 45-47, 49, 50, 53, 56, 58, 64-69, 72, 75, 93, 94, 96, 101-103, 105, 106, 109, 112-114, 116, 121-123, 125, 126, 129, 132-134, 136, 141-143, 145, 146, 149 and 152, Applicant argues that the Gilmore reference does not teach a supply chain. Examiner acknowledges that Gilmore does not explicitly teach a supply chain, but does teach the evaluation of a supplier supplying automobiles. As stated above, although Gilmore does not specifically teach a supply chain, inherently a supplier of goods is part of a supply chain. Therefore, the rejection under 35 USC 102 that Gilmore anticipates the claims is upheld.

6. As per the rejections under 35 USC 103 to claims 163, 164, 166, 167, 170, 173, 183, 184, 186, 187, 190, 193, 203, 204, 206, 207, 210 and 213, Applicant argues that neither Aycock nor Gilmore teach a supply chain therefore the depending claims are not obvious. As stated above, although Aycock and Gilmore do not explicitly teach a supply chain, it is inherent that a supplier of goods or services is part of a supply chain.

7. As per the rejections under 35 USC 103 to claims 77-92, Applicant argues that neither Aycock does not teach a supply chain therefore combining the reference with the James et al reference would not be obvious. As stated above, although Aycock does not explicitly teach a supply chain, it is inherent that a supplier of goods or services is part of a supply chain.

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8. The rejections applied in the prior office action have been upheld and are reproduced below for convenience. New rejections to claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199 and 201 are presented below.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1- 3, 5, 7, 10, 13, 14, 16, 17, 19-22, 24, 29, 32, 33, 35, 36, 38-41, 43, 48, 51, 52, 54, 55, 57-60, 62, 67, 70, 71, 73, 74, 76, 93-97, 99, 104, 107, 108, 110, 111, 113-117, 119, 124, 127, 128, 130, 131, 133-137, 139, 144, 147, 148, 150, 151, 153-158, 160, 162, 165, 168, 169, 171, 172, 174-178, 180, 185, 188, 189, 191, 192, 194-198, 200, 205, 208, 209, 211, 212** are rejected under 35 U.S.C. 102(b) as being anticipated by **Aycock et al, U.S. Patent Number 5,765,138**.

As per **claim 1**, Aycock et al teaches a method of evaluating the supply base of a supply chain comprising the steps of: inputting data concerning at least one of multiple suppliers in said supply chain (column 3, lines 3-5); displaying performance indicators relating to the performance of said at least one supplier with regard to other entities in said supply chain (column 4, lines 2-6; column 9, lines 37-44); and producing an evaluation score for said at least one supplier based on said inputted data (column 3, lines 3-12).

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As per **claim 2**, Aycock et al teaches the performance indicators displayed in said displaying step comprise at least one of: returns, damaged returns, group sales, net sales, buying margin, achieved margin, lateness of order, and service level (column 3, lines 9-13 – the calculation performed refers to the serviceability of the vendor).

As per **claim 3**, Aycock et al teaches the evaluation score is based on deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per claim 4, teaches the evaluation score is based on pre-season and in-season deliveries.

As per **claim 5**, Aycock et al teaches the evaluation score is based upon deliveries, quality, documentation, culture, and communication (column 3, lines 9-13 – the calculation performed refers to distribution and quality).

As per claim 6, teaches the evaluation score is based on pre-season and in-season performance.

As per **claim 7**, Aycock et al teaches the evaluation comprising the further step of comparing evaluation scores for multiple suppliers (column 10, lines 5-11).

As per **claim 10**, Aycock et al teaches the evaluation comprising the further step of comparing performing indicators for multiple suppliers (column 10, lines 5-7).

As per **claim 13**, Aycock et al teaches the evaluation score is a numeric representation of performance (column 7, lines 3-13).

As per **claim 14**, Aycock et al teaches the numeric representation is on a scale of 1 to 10 (column 7, lines 3-13 – the response schedule identifies 10 possible items, a point is awarded for each item identified in the response).

As per **claim 16**, Aycock et al teaches the step of providing for input of anecdotal information (Column 13, lines 5-12 – the supplier provides responses to questions which are generated in a word processing-based document).

As per **claim 17**, Aycock et al teaches the step of linking the evaluation score to a product type (column 9, line 59 – column 10, line 5).

As per **claim 19**, Aycock et al teaches the step of restricting the inputting step to authorized personnel (column 10, lines 55-67 – upon receiving the proper access code, the supplier can input information).

As per **claim 20**, it is the computer readable medium having the computer-executable instructions for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 20.

Claims 21, 22, 24, 29, 32, 33, 35, 36, 38 receive the same analysis as applied to claims 2, 3, 5, 10, 13, 14, 16, 17, 19 above.

As per **claim 39**, it is the computer readable medium having the computer-executable modules/components for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 39.

Claims 40, 41, 43, 48, 51, 52, 54, 55, 57 receive the same analysis as applied to claims 2, 3, 5, 10, 13, 14, 16, 17, 19 above.

As per **claim 58**, it is the system of the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 58.

Claims 59, 60, 62, 67, 70, 71, 73, 74, 76 receive the same analysis as applied to claims 2, 3, 5, 10, 13, 14, 16, 17, 19 above.

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As per **claim 93**, Aycock et al teaches receiving data concerning at least one of a plurality of suppliers (column 3, lines 3-13); receiving a request relating to at least one supplier of a supply chain (column 4, lines 2-6); and generating at least one performance indicator of the at least one supplier with respect to at least one other supplier (column 9, lines 37-44). Hence, the same evaluation as applied to claim 1 above, is applied to claim 93.

Claims 94, 95, 96, 97, 99, 104, 107, 108, 110, 111 receive the same analysis as applied to claims 1, 2, 3, 5, 10, 13, 14, 16, 17 above.

As per **claim 113**, it is the computer readable medium having computer executable instructions for performing the method of **93**; therefore the analysis as applied to claim 93 above is applied to claim 113.

Claims 114, 115, 116, 117, 119, 124, 127, 128, 130 and 131 receive the same analysis as applied to claims 94, 95, 96, 97, 99, 104, 107, 108, 110, 111 above.

As per **claim 133**, it is the computer readable medium having computer executable modules/components for performing the method of **claim 93**; therefore the analysis as applied to claim 93 above is applied to claim 133.

Claims 134, 135, 136, 137, 139, 144, 147, 148, 150, 151 receive the same analysis as applied to claims 94, 95, 96, 97, 99, 104, 107, 108, 110, 111 above.

As per **claim 153**, the recited step of "logging into a system" constitutes the same limitation as addressed in claim 19 that recites providing "restricted access". Furthermore, claim 19 depends from claim 1 which recites the steps that are equivalent to the steps recited in claim 153. Therefore the analysis as applied to claims 1 and 19 is applied to claim 153.

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As per **claim 154**, Aycock teaches the performance information includes at least one of actual evaluations, supplier information, teams view evaluations and bulletin board data (column 10, lines 55-67 – once the system is accessed, one can access databases of the supplier evaluation system to receive information on performance reports or product updates).

Claims 155, 156, 157, 158, 160, 162, 165, 168, 169, 171, 172 receive the same analysis as applied to claims 1, 2, 3, 5, 7, 10, 13, 14, 16, 17 above.

As per **claim 174**, it is the computer readable medium having computer-executable instructions for performing the steps of claim 153. Therefore the analysis as applied to claim 153 is applied to claim 174.

Claims 175, 176, 177, 178, 180, 185, 188, 189, 191, 192 receive the same analysis as applied to claims 155, 156, 157, 158, 160, 162, 165, 168, 169, 171, 172 above.

As per **claim 194**, it is the computer readable medium having computer executable modules/components for performing **claim 153**. Therefore the analysis as applied to claim 153 above is applied to claim 194.

Claims 195, 196, 197, 198, 200, 205, 208, 209, 211, 212 receive the same analysis as applied to claims 155, 156, 157, 158, 160, 162, 165, 168, 169, 171, 172 above.

11. **Claims 1, 2, 7-9, 11, 12, 15, 18, 20, 26-28, 30, 31, 34, 37, 39, 45-47, 49, 50, 53, 56, 58, 64-69, 72, 75, 93, 94, 96, 101-103, 105, 106, 109, 112-114, 116, 121-123, 125, 126, 129, 132-134, 136, 141-143, 145, 146, 149, 152**, are rejected under 35 U.S.C. 102(b) as being anticipated by **Gilmore, Jr. U.S. Patent No. 6,008,817**.

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As per **claim 1**, Gilmore, Jr. teaches a method of evaluating the supply base of a supply chain comprising the steps of: inputting data concerning at least one of multiple suppliers in said supply chain (column 3, lines 35-36); displaying performance indicators relating to the performance of said at least one supplier with regard to other entities in said supply chain (column 3, lines 44-46); and producing an evaluation score for said at least one supplier based on said inputted data (column 3, lines 41-43).

As per **claim 2**, Gilmore, Jr. teaches the performance indicators displayed in said displaying step comprise at least one of: returns, damaged returns, group sales, net sales, buying margin, achieved margin, lateness of order, and service level (column 7, lines 4-9 – performance indicator such as maintenance expenses (service level) is one of the components used to evaluate automobile suppliers).

As per **claim 7**, Gilmore, Jr. teaches the evaluation comprising the further step of comparing evaluation scores for multiple suppliers (column 7, lines 26-32).

As per **claim 8**, Gilmore, Jr. teaches the comparison in tabular form (column 3, lines 6-10).

As per **claim 9**, Gilmore, Jr. teaches the comparison in graphical form (column 3, lines 44-46).

As per **claim 11**, Gilmore, Jr. teaches the performance indicators are displayed in tabular form (column 3, lines 6-10).

As per **claim 12**, Gilmore, Jr. teaches the performance indicators are displayed in graphical form (column 3, lines 44-46).

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As per **claim 15**, Gilmore, Jr. teaches the evaluation score is represented in a scale of colors indicating the overall rating of the supplier (column 7, lines 26-32).

As per **claim 18**, Gilmore, Jr. teaches the step of ranking multiple ones of the suppliers by the evaluation scores (column 7, lines 49-54).

As per **claim 20**, it is the computer readable medium having the computer-executable instructions for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 20.


Claims 26, 27, 28, 30, 31, 34 and 37 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

As per **claim 39**, it is the computer readable medium having the computer-executable module/component for the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 39.

Claims 45, 46, 47, 49, 50, 53, 56 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

As per **claim 58**, it is the system of the method of **claim 1**. Therefore the analysis as applied to claim 1 above is applied to claim 58.

Claims 64, 65, 66, 67, 68, 69, 72, 75 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

 As per **claim 93**, Gilmore, Jr. teaches receiving data concerning at least one of a plurality of suppliers (column 3, lines 3-13); receiving a request relating to at least one supplier of a supply chain (column 4, lines 2-6); and generating at least one performance indicator of the at

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least one supplier with respect to at least one other supplier (column 9, lines 37-44). Hence, the same evaluation as applied to claim 1 above, is applied to claim 93.

Claims 94, 96, 101, 102, 103, 105, 106, 109, 112 receive the same analysis as applied to claims 7, 8, 9, 11, 12, 15 and 18 above.

As per **claim 113**, it is the computer readable medium having computer executable instructions for performing the method of **claim 93**. Therefore the analysis as applied to claim 93 above is applied to claims 113.

Claims 114, 116, 121, 122, 123, 125, 126, 129, 132 receive the same analysis as applied to claims 94, 96, 101, 102, 103, 105, 106, 109, 112 above.

As per **claim 133**, it is the computer readable medium having computer executable modules/components for performing the method of **claim 93**. Therefore the analysis as applied to claim 93 above is applied to claim 133.

Claims 134, 136, 141, 142, 143, 145, 146, 149, 152 receive the same analysis as applied to claims 94, 96, 101, 102, 103, 105, 106, 109, 112 above.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. **Claims 163, 164, 166, 167, 170, 173, 183, 184, 186, 187, 190, 193, 203, 204, 206, 207, 210 and 213** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aycock et al**, U.S. Patent No. 5,765,138 in view of **Gilmore, Jr.** U.S. Patent No. 6,008,817.

As per **claims 163, 164, 166, 167, 170, 183, 184, 186, 187, 190, 203, 204, 206, 207 and 210** Aycock et al teaches all the limitations of these claims as applied to their respective base claims as discussed above, but does not explicitly teach the display of information in tabular form, graphical form or on a scale of colors indicating rating. Gilmore, Jr. teaches the display of information in tabular form (column 3, lines 6-10), graphical form (column 3, lines 44-46) and by color (column 7, lines 26-32). It is old and well known in the art that information can be displayed in three forms, text, tabular or graphical. Therefore it would have been obvious to one of ordinary skill in the art to display the performance information of Aycock et al as the performance information is displayed in Gilmore, Jr. The motivation would be to compile performance data and show the data in a simplified, apparent way, such as tables, graphs or color scale.

As per **claims 173, 193 and 213**, Aycock et al teaches all the limitations of claims 173, 193 and 213 as applied to their respective base claims as discussed above, but does not specifically teach ranking multiple suppliers by score. Gilmore, Jr. teaches the step of ranking multiple ones of the suppliers by the evaluation scores (column 7, lines 49-54). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ranking of Gilmore, Jr. in the performance evaluation of Aycock et al. The motivation would be to present the performance data in a well organized manner, which would make the task of selecting the best supplier much simpler.

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14. Claims 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aycock et al, U.S. Patent No. 5,765,138** in view of **James et al.**

As per **claims 77, 81, 85 and 89**, Aycock et al. teaches all the limitations of these claims as applied to claims 1, 20, 39 and 58 above. Aycock et al does not teach providing a bulletin board so users can communicate to assess and evaluate the supply base. Examiner takes Official Notice that it is notoriously old and well known in the art to use electronic bulletin board systems (BBS) to share common information among a group of users. For instance, USENET newsgroups have been used for over a decade to provide a common forum to post important messages between the users to share a particular topic. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include an electronic bulletin board in Aycock since Aycock already teaches sharing information over a computer network and BBS, as it is notoriously well known in the art at the time the invention was made, provides for a simple, mass information dissemination format so users can read and provide immediate feedback on the issue at hand.

As per **claims 78, 79, 80, 82, 83, 84, 86, 87, 88, 90, 91 and 92**, these are inherent administrative procedures for an electronic bulletin board system. See, for example, James et al reference ("An Exploratory Study of the Perceived Benefits of Electronic Bulletin Board Use and Their Impact on Other Communication Activities") cited herewith.

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15. Claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199, 201 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al, U.S. Patent No. 5,765,138.

As per claims **4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199 and 201**, Aycock et al does not specifically teach the evaluation score based on pre-season and in-season performance, however, Official notice is taken that it is well known in the art of supply chain management that the evaluation of a supplier would take into account pre-season and in-season performance. In any supply chain where products are being manufactured or sold, seasons play a big role. For example, in the production of bathing suits, there would be a greater demand in the months leading to summer, therefore, the motivation to include seasonal performance is that it is important to see how well the suppliers in the supply chain can react to fluctuations in demand.

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Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Johnna Stimpak** whose telephone number is **703-305-4566**. The examiner can normally be reached Monday through Friday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Tariq Hafiz**, can be reached on **703-305-9643**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

703-305-7687

[Official communications; including
After Final communications labeled
"Box AF"]

703-746-3956

[Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor.

Js

May 9, 2003

Susanna Diaz
Susanna Diaz
Patent Examiner
Art Unit 3623